

Exhibit A

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA, HUNTINGTON DIVISION
BEFORE THE HONORABLE ROBERT C. CHAMBERS, JUDGE

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CLAUDE R. KNIGHT and CLAUDIA
STEVENS, individually and as
personal representatives of the
Estate of BETTY ERLINE KNIGHT,
deceased,

Plaintiffs,

vs.

No. 3:15-CV-06424

BOEHRINGER INGELHEIM
PHARMACEUTICALS, INC.,

Volume 1
Pages 1 through 121

Defendant.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

WEDNESDAY, OCTOBER 3, 2018, 9:00 A.M.

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For the Plaintiffs: CHILDERS, SCHLUETER & SMITH
1932 North Druid Hills Road, Ste 100
Atlanta, Georgia 30319
BY: C. ANDREW CHILDERS

URY & MOSKOW
883 Black Rock Turnpike
Fairfield, Connecticut 06825
BY: NEAL L. MOSKOW

(Appearances continued next page...)

Reported by: KATHY L. SWINHART, CSR
LISA A. COOK, RPR-RMR-CRR-FCRR
Official Court Reporters
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1 APPEARANCES (Continued)

2
3 For the Plaintiffs:

4 FERRER, POIROT & WANSBROUGH
2100 RiverEdge Parkway, Suite 1025
5 Atlanta, Georgia 30328
6 BY: RUSSELL ABNEY
and HUNTER VANCE LINVILLE
7

8 For the Defendant:

9 TUCKER ELLIS
925 Euclid Avenue, Suite 1150
10 Cleveland, Ohio 44115
11 BY: JOHN Q. LEWIS

12 COVINGTON & BURLING
One City Center
13 850 Tenth Street NW
Washington, D.C. 20001
14 BY: PHYLLIS ALENE JONES
and NICHOLAS HAILEY
15 and JESSICA PEREZ

16 JACKSON KELLY
17 Post Office Box 553
Charleston, West Virginia 25322
18 BY: GRETCHEN M. CALLAS
19

20 Also Present:

21 CLAUDE R. KNIGHT, Plaintiff
22
23
24
25

1 monitors, this TV and the larger TV here all show the same
2 thing.

3 When an exhibit is introduced into evidence, it will be
4 shown, most likely, on the monitor. And then some exhibits
5 will be physically passed to the jury. So you can expect to
6 look at any of these.

7 If you have trouble seeing anything, just give me a
8 sign. Raise your hand and tell me. We'll make sure things
9 are working right and they're showing up right.

10 MR. CHILDERS: Thank you, Your Honor.

11 I'm not used to wearing one of these lapel mics, so I
12 apologize.

13 Drugs can hurt people. We all know that. We talked
14 about this at length yesterday, that any time you take a
15 medication, you take a risk. Because drugs can hurt people,
16 drug companies who sell them have some specific duties to
17 patients.

18 What does a drug company have to do? In order to avoid
19 liability for injuries to a patient, they only have to do
20 one thing. They have to warn the patient about the side
21 effects that that drug can cause.

22 If they don't warn the patient or if they don't
23 adequately warn the patient, then they can be liable and
24 they are liable for failing to warn.

25 You heard the Judge give you a lot of instructions just

1 a few minutes ago about all the different claims that the
2 plaintiffs are making in this case. It really boils down to
3 that, failure to warn.

4 The drug company had information that should have been
5 given to Betty Knight and her family and it wasn't. And
6 that's what the evidence is going to show.

7 My name is Andy Childers. We met briefly yesterday. I
8 got to speak with some of you. I appreciate all of your
9 openness, your willingness to serve as jurors in this case.
10 I know it's not easy. I know it's a hardship. But we
11 greatly appreciate that because this is a very important
12 case.

13 It's a very important case to Rick and his sister
14 Claudia who you met yesterday and the rest of their family.
15 And we -- all we ask is that you listen with an open mind,
16 that you pay attention, and that at the end of the day, you
17 return a just verdict.

18 I want to also introduce you to Neal Moskow who you met
19 yesterday. He's going to be sitting here with me pretty
20 much every day through this trial. You're going to hear
21 from him later hopefully this afternoon, possibly tomorrow.
22 And there will be a few other people you may hear from our
23 side as well.

24 The issue that we're going to address here is warnings
25 to patients. What you may hear in the case is warnings that

1 are not on dialysis but they're not that far away either.

2 That's important because you'll hear, and the evidence
3 in this case, Pradaxa, when you take it, it clears through
4 your kidneys, meaning when you take anything in, you ingest
5 it, you metabolize it, and then you excrete whatever is
6 left.

7 With Pradaxa, it goes almost all through your kidneys.
8 The worse the function in your kidneys are, the more and
9 more and more the medication builds up in your system
10 because it's not getting out. That's why it's so important
11 to make sure a person with impaired or bad kidneys doesn't
12 have too much Pradaxa in their system.

13 And you'll see in this case -- and I'm sorry this is so
14 small. We don't have to get into the details of it right
15 now. But this is the Medication Guide that was given
16 apparently from the pharmacy. You'll hear the pharmacy's
17 giving these Medication Guides to patients when they fill
18 medications. I think we talked about that yesterday. They
19 staple them or they put them in the bag.

20 This is the warning that Boehringer gives to patients.
21 This is the entirety of it, these four pages. And what
22 you're going to hear, this is where kind of the rubber meets
23 the road. This is where the warning issue comes to light in
24 this case. Did they warn Betty and her family adequately or
25 not? That's your decision to make.

1 We're going to present to you evidence to show that
2 there were several things they failed to tell Betty and her
3 family that would have absolutely prevented them from
4 switching her to Pradaxa from warfarin. And let me back up
5 a minute on that too.

6 Betty was on warfarin a long time. Sometimes her
7 levels got too high. Sometimes her levels got too low. But
8 because they checked it on a regular basis, they were always
9 able to get her back where she needed to be.

10 And you'll hear Dr. MacFarland testify herself. She
11 never had a bleed and she never had a stroke while
12 Dr. MacFarland was managing her warfarin.

13 You'll hear also from Dr. MacFarland it wasn't her idea
14 that Betty needed to change to another drug. The family
15 came in and asked for it because they saw a TV ad, a
16 commercial, that said, "Ask your doctor about Pradaxa."

17 And, so, what we're going to show you with this
18 Medication Guide is there are several pieces of information
19 missing that the patient should have known; and that if the
20 patient and her family would have known, they never would
21 have switched her to Pradaxa from warfarin.

22 First and foremost, this drug, Pradaxa, had never been
23 tested in patients who have severe renal impairment. That's
24 Betty Knight. She had severe renal impairment. They
25 excluded those patients from their clinical trial.

1 Why did they do that? Because it's dangerous. But
2 when they sold this drug to Betty Knight and her family,
3 they didn't tell her that. They didn't tell them that.
4 They didn't say, "Hey, by the way, we haven't actually
5 tested this drug in a patient like you. You need to know
6 that before you agree to go off the medication that's been
7 working for you for the last six years."

8 The second thing they never told patients, or they
9 didn't tell Betty Knight and her family, excuse me, this
10 75-milligram dose that she took, it had never been tested in
11 a human patient at all, at all.

12 They ran some computer simulations based on the testing
13 they did in healthier patients who were taking the
14 150-milligram dose and came up with a dose that they never
15 tested in patients.

16 Instead of doing a clinical trial, they made Betty
17 their clinical trial. But they didn't tell her that.
18 That's the failure to warn.

19 Can you imagine taking a drug that had never actually
20 been tested in human patients and not even knowing it?
21 That's failure to warn.

22 The third thing they didn't tell Betty and her family
23 was, "Don't take Pradaxa and Coreg." Because she had severe
24 renal impairment, she shouldn't have ever taken those two
25 drugs together. They'll tell you that. Coreg is a P-gp

1 inhibitor. We talked about that a few minutes ago. It
2 causes the Pradaxa to -- it causes more of the Pradaxa to
3 get into your system.

4 And, so, Betty was on Coreg already. They didn't tell
5 her or her family, "Because you're on Coreg, this is not the
6 medication for you. Just stick with what you have. It's
7 working for you. Stick with that." They didn't do that.
8 They never told her that.

9 The fourth thing that they didn't tell Betty and her
10 family was that, "If you have a bleed on Pradaxa, there's
11 nothing we can give you to stop it. There's no reversal
12 agent."

13 If you have a bleed and you're on warfarin or Coumadin,
14 they give you Vitamin K or they can give you what's called
15 fresh frozen plasma and that helps to stop it.

16 Betty and Rick and Claudia knew that because on
17 occasion when her levels got too high, she would take
18 Vitamin K and it worked. But you know what they didn't
19 know? If that happened on Pradaxa, you're just going to
20 have to wait that bleed out and hope for the best.

21 The fifth thing that Boehringer didn't tell her or her
22 family was that when you take Pradaxa, you're much more
23 likely to have a GI bleed than you are when you take
24 warfarin.

25 Now, they'll come in here and tell you, "We told her

1 CERTIFICATION:

2 We, Kathy L. Swinhart, CSR, and Lisa A. Cook,
3 RPR-RMR-CRR-FCRR, certify that the foregoing is a correct
4 transcript from the record of proceedings in the above-entitled
5 matter as reported on October 3, 2018.

6
7
8 October 3, 2018
9 DATE

10 /s/ Kathy L. Swinhart
11 KATHY L. SWINHART, CSR

12 /s/ Lisa A. Cook
13 LISA A. COOK, RPR-RMR-CRR-FCRR
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